

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

In Re: Stockeryale, Inc.
Securities Litigation


Civil No. 05-cv-177-SM

O R D E R

Re: Motion to Reconsider (Document No. 55)

Ruling: Granted. Putative class member, Nickalus T. Holt, seeks reconsideration of the denial of his motion to extend the time in which he had to opt out of the approved class settlement. His pro se motion, while not in proper form, represents, but not under oath, that " . . . I did not get any notice of the date by which I had to exercise my right to [opt] out of the [s]ettlement." (Emphasis added.) Defendants oppose the motion, contending that even if Holt did not actually receive the mailed notice of his right to opt out until after the date for exercising it had passed, as he claims, still, Holt had actual notice through a variety of sources, as well as constructive notice, and, indeed, they point out that Holt was a named plaintiff in this case, that legal counsel appeared on his behalf and has represented him throughout, and that he has received actual notice of all orders, including those establishing deadlines, particularly the deadline for opting out of the class settlement., through His legal counsel in this very case. A quick review of the docket sheet establishes that Holt's counsel received copies of all pertinent orders and pleadings through the end of this litigation. Having reconsidered the matter, the court denies Holt's motion to extend the time in which he may opt out of the class settlement, for the reasons set out in defendants' opposition, and because the motion provides an insufficient factual basis for such relief, given that he plainly received actual notice through his authorized representative of all critical dates and yet did not act until well after the final order and judgment were entered.

SO ORDERED.



Steven J. McAuliffe
Chief Judge

Date: March 21, 2008

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